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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/576,243

10/27/2006

Ralf Dunkel

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08/27/2008

BAYER CROPSCIENCE LP

Patent Department

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EXAMINER

CHU, YONG LIANG

ART UNIT

PAPER NUMBER

1626

MAIL DATE

DELIVERY MODE

08/27/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/576,243	Applicant(s) DUNKEL ET AL.	
	Examiner YONG CHU	Art Unit 1626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 20-36 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 20-36 are currently pending in the instant application.

Election/Restrictions

Restriction is required under 35 U.S.C. 372.

This application contains the following inventions or groups of inventions, which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

Claims 20-36 are drawn to more than one inventive concept (as defined in PCT Rule 13), and accordingly, a restriction is required according to the provision of PCT Rule 13.2

PCT Rule 13.2 states that the international application shall relate to one invention only or to a group of inventions so linked as to form a general inventive concept (requirement of unity of invention).

PCT Rule 13.2 states that unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features.

Annex B, Part 1 (b), provides that “special technical features” mean those technical features, which, as a whole, define a contribution over the prior art.

Annex B, Part 1 (e), provides combinations of different categories of claims and states:

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"The method for determining unity of invention under Rule 13 shall be construed as permitting, in particular, the inclusion of any one of the following combinations of claims of different categories in the same international application:

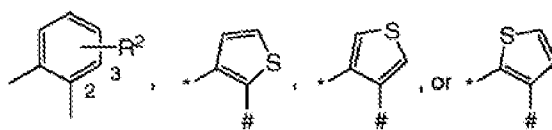
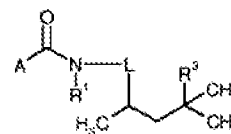
(i) in addition to an independent claim for a given product, an independent claims for a process specially adapted for the manufacture of the said product, and an independent claim for use of the said product, or

(ii) in addition to an independent claim for a given process, an independent claim for an apparatus or means specially designed for carrying out the said process, or

(iii) in addition to an independent claim for a given product, and independent claim for a process specially adapted for the manufacture of the said product, and an independent claim for an apparatus or means specially designed for carrying out the said process,..."

This application contains the following inventions or groups of inventions, which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The instant application is related to a compound of formula (I)



according to claim 20, wherein **L** is

radical of formulae (A1-A17), intermediates, a method of preparing a compound thereof, and a method of using the compounds. The special technical feature of the invention is a compound of the formula (I).

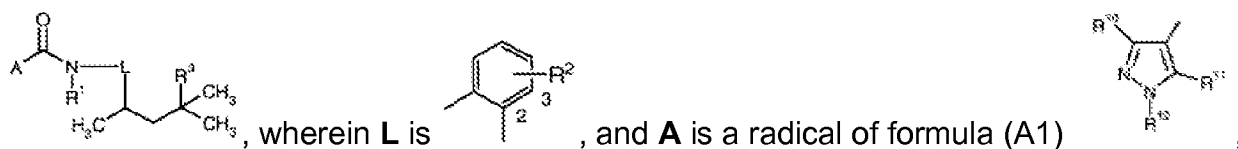
Due to widely divergent variables in the compound of formula (I), e.g. **A**, **L**, and **R¹-R⁴²**, the general formula (I) contains various distinct special technical features. A preliminary STN search of the core structure of the inventions leads to 4138-6052

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compounds sharing the core structure (see attached STN preliminary search report).

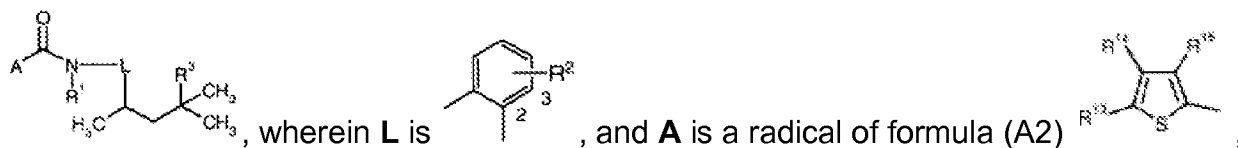
Therefore the inventions lack unity of invention. For this reason, further restriction is required.

Group I: Claims 20-22, 24-28, and 30 are drawn to a compound of formula (I)



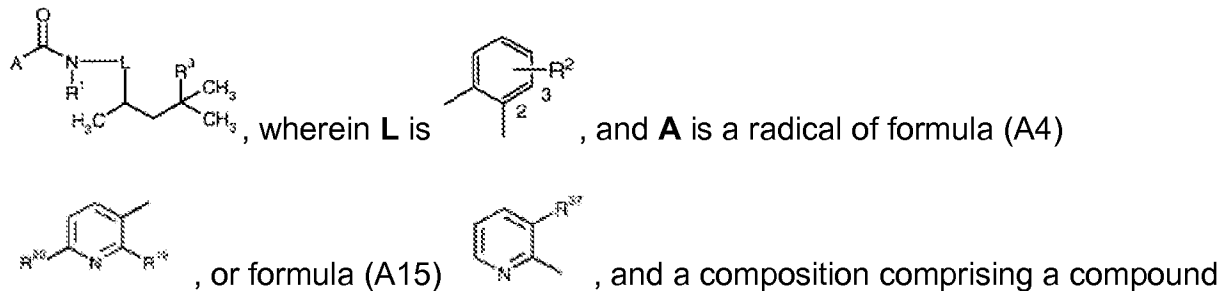
and a composition comprising a compound thereof.

Group II: Claims 20-22, 24-28, and 30 are drawn to a compound of formula (I)



or formula (A3) , and a composition comprising a compound thereof.

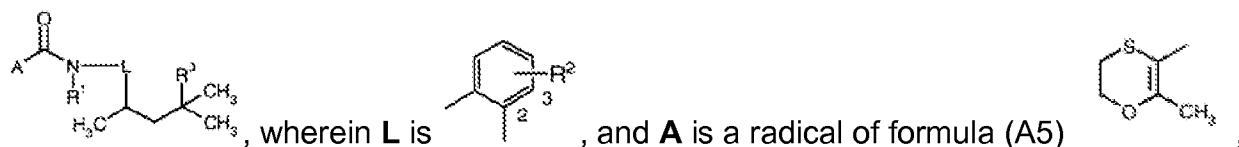
Group III: Claims 20-22, 24-28, and 30 are drawn to a compound of formula (I)



thereof.

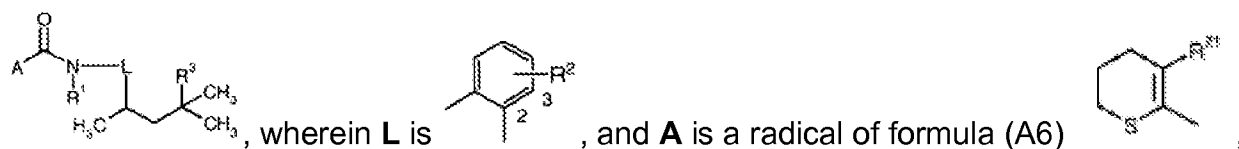
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Group IV: Claims 20-22, 24-28, and 30 are drawn to a compound of formula (I)



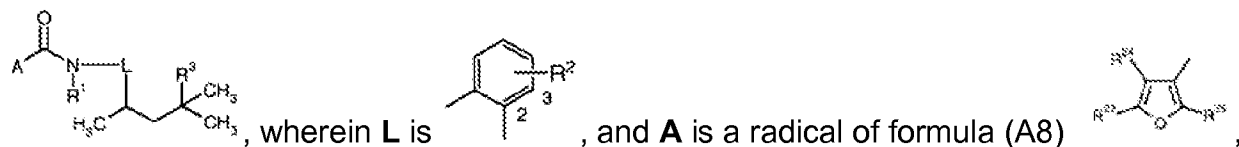
and a composition comprising a compound thereof.

Group V: Claims 20-22, 24-28, and 30 are drawn to a compound of formula (I)



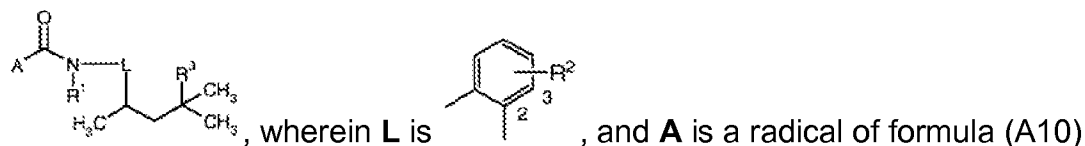
or formula (A7)
, and a composition comprising a compound thereof.

Group VI: Claims 20-22, 24-28, and 30 are drawn to a compound of formula (I)

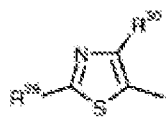


formula (A9)
, or formula (A13)
, and a composition comprising a compound thereof.

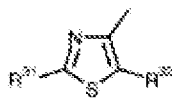
Group VII: Claims 20-22, 24-28, and 30 are drawn to a compound of formula (I)



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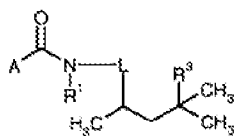
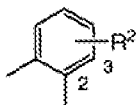
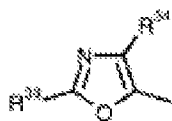
, or formula (A11)



, and a composition comprising a

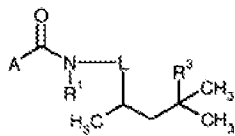
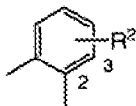
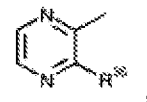
compound thereof.

Group VIII: Claims 20-22, 24-28, and 30 are drawn to a compound of formula (I)

, wherein **L** is, and **A** is a radical of formula (A12)

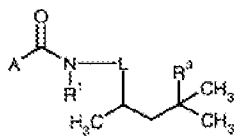
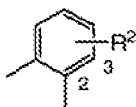
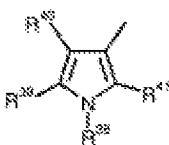
, and a composition comprising a compound thereof.

Group IX: Claims 20-22, 24-28, and 30 are drawn to a compound of formula (I)

, wherein **L** is, and **A** is a radical of formula (A14)

and a composition comprising a compound thereof.

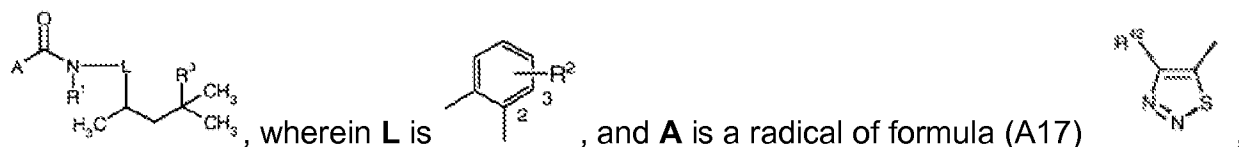
Group X: Claims 20-22, 24-28, and 30 are drawn to a compound of formula (I)

, wherein **L** is, and **A** is a radical of formula (A16)

, and a composition comprising a compound thereof.

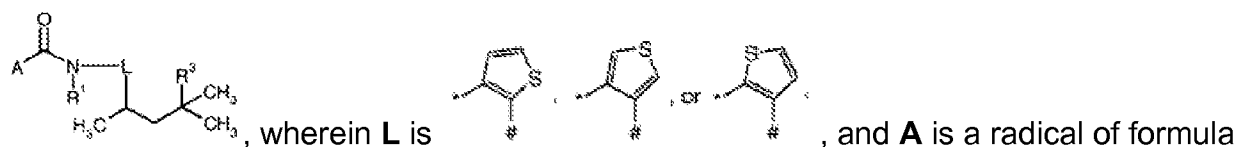
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Group XI: Claims 20-22, 24-28, and 30 are drawn to a compound of formula (I)



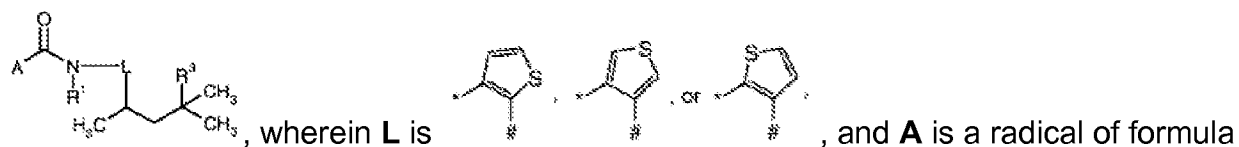
and a composition comprising a compound thereof.

Group XII: Claims 20-21, 23-28, and 30 are drawn to a compound of formula (I)



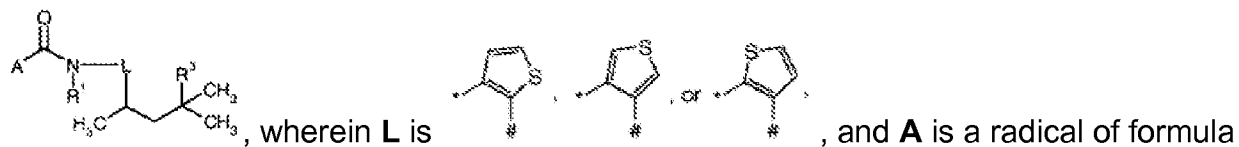
(A1), and a composition comprising a compound thereof.

Group XIII: Claims 20-21, 23-28, and 30 are drawn to a compound of formula (I)



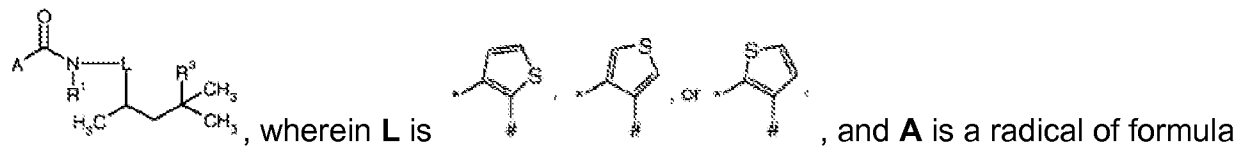
(A2), or formula (A3), and a composition comprising a compound thereof.

Group XIV: Claims 20-21, 23-28, and 30 are drawn to a compound of formula (I)



(A4), or formula (A15), and a composition comprising a compound thereof.

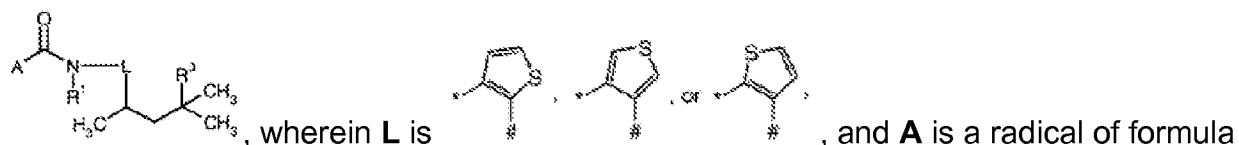
Group XV: Claims 20-21, 23-28, and 30 are drawn to a compound of formula (I)



(A5), and a composition comprising a compound thereof.

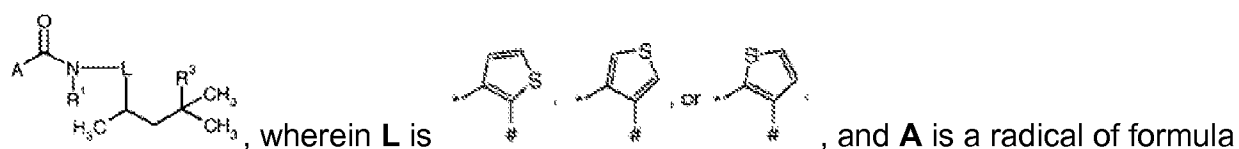
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Group XVI: Claims 20-21, 23-28, and 30 are drawn to a compound of formula (I)



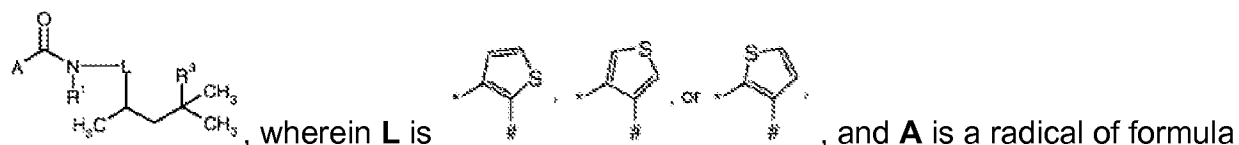
(A6), or formula (A7), and a composition comprising a compound thereof.

Group XVII: Claims 20-21, 23-28, and 30 are drawn to a compound of formula (I)



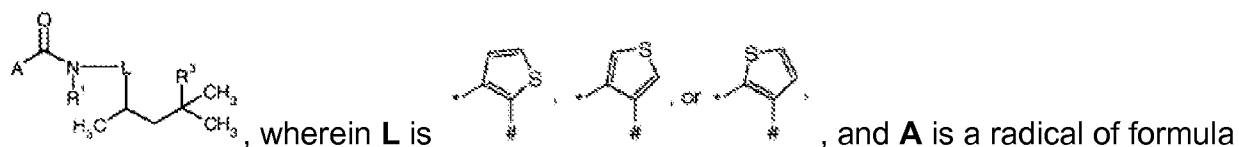
(A8), formula (A9), or formula (A13), and a composition comprising a compound thereof.

Group XVIII: Claims 20-21, 23-28, and 30 are drawn to a compound of formula (I)



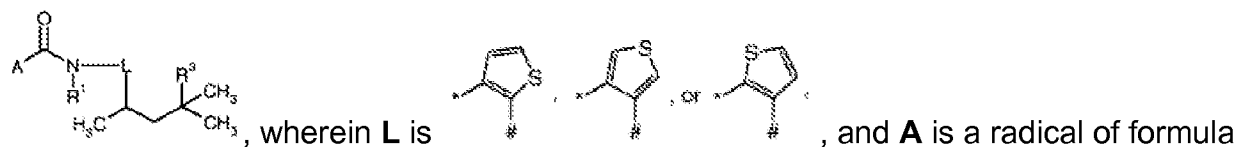
(A10), or formula (A11), and a composition comprising a compound thereof.

Group XIX: Claims 20-21, 23-28, and 30 are drawn to a compound of formula (I)



(A12), and a composition comprising a compound thereof.

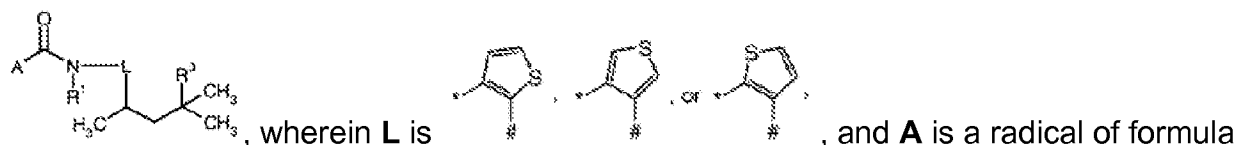
Group XX: Claims 20-21, 23-28, and 30 are drawn to a compound of formula (I)



(A14), and a composition comprising a compound thereof.

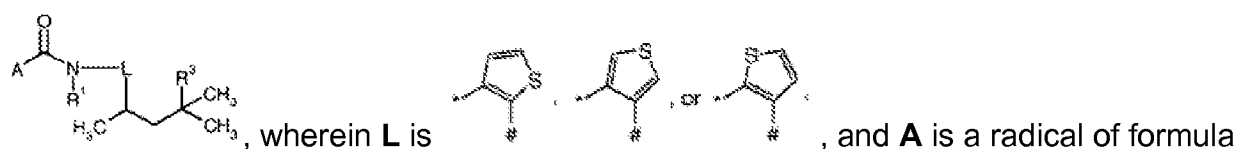
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Group XXI: Claims 20-21, 23-28, and 30 are drawn to a compound of formula (I)



(A16), and a composition comprising a compound thereof.

Group XXII: Claims 20-21, 23-28, and 30 are drawn to a compound of formula (I)



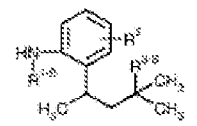
(A17), and a composition comprising a compound thereof.

Group XXIII: Claim 29 is drawn to a process for preparing a compound of formula (I) according to claim 20.

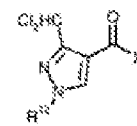
Group XXIV: Claim 31 is drawn to a method of using said compound of formula (I) according to claim 20.

Group XXV: Claim 32 is drawn to a process for preparing a composition comprising a compound of formula (I) according to claim 20.

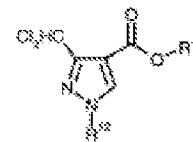
Group XXVI: Claim 33 is drawn to a compound of formula (III-b)



Group XXVII: Claim 34 is drawn to a compound of formula (II-a)



Group XXVIII: Claim 35 is drawn to a process for preparing a compound of formula (II-a) according to claim 34.



Group XXVIV: Claim 36 is drawn to a compound of formula (XII)

Group XXX: Claim 37 is drawn to a process for preparing a compound of formula (XII) according to claim 36.

Applicant also needs to elect a single compound as the elected species for initial search purpose.

The claims herein lack unity of invention under PCT rule 13.1 and 13.2 since, under 37 CFR 1.475(a) the compounds defined in the claims lack a significant structural element qualifying as the special technical feature evidenced by formula (I) with numerous and widely divergent variables in the compound. Accordingly, unity of invention is considered to be lacking and restriction of the invention in accordance with the rules of unity of invention is considered to be proper. Additionally, the vastness of the claimed subject matter, and the complications in understanding the claimed subject matter imposes a serious burden on any examination of the claimed subject matter.

Telephone Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed Yong Chu whose telephone number 571-272-5759. The examiner can normally be reached on 7:00 am - 3:30 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane can be reached on (571) 272-0699. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Status Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Yong Chu, Ph.D./
Patent Examiner,
AU 1626